

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17

What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, <sup>COLL</sup> BEGAN TO WAKE ALL OFFENDERS ON 4-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOO NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED POSTER COURT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

1-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM POSTER COURT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COURT/ID PRESENTATION BUT HIS POLICY OF PASSING MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT



Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	7018025778	GAIN, Roger	700474	ML



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** *(check the applicable box)*

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

K. Fuentes, Clerk II

11/14/17

Name and Title

Date

Original – Send to the Offender

Copy – Attach to the Grievance

## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

## GRIEVANCE OFFICE USE ONLY

STEP 1

STEP 2 X

Unit	R4	INV ID:	I1722	GR #	2018025778	Date Initiated:	03/09/18	Date Completed:	03/19/18	Due Date	03/17/2018
Offender Name:		FAIN, ROGER				TDCJ No:	700474	Housing:	ML		
Issue Code:		EMERGENCY		ADA	( )	Property		( )	Use of Force (UOF)		( )
815		YES	( )	Disciplinary	( )	Religion		( )	Harassment or Retaliation*		( )
		NO	( X )	Medical	( )	OPI Investigation		( )	PREA		( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

Offender is claiming Officer Martinez woke everyone up at 11:25 PM and ordered them to stand at the end of their bunk and to hand him their ID. Claims this is a violation of policy, Martinez is the only officer that does this, deprives offenders of sleep and is causing a hostile environment.

## Requested Remedy:

Offender work early and sleep is necessary, roster count is conducted at 8:00 PM ID's can be personally presented at that time.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

CO V Martinez statement  
Lt. Zambrano statement  
SM-01.03 Count Procedures

## Suggested Response to Offender:

Your complaint has been noted and was appropriately addressed at step one. A bed book account is performed during nighttime hours when offenders are confined to their housing areas. It is a physical count of offenders that requires a verbal response and positive identification of the offender using the offender's identification card. There is no evidence to support your allegations of harassment. No further action warranted.



OUTCOME CODE:	D	RESOLUTION CODE:	2.01	(Grievance Office Use Only)
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Investigating official completes the section below:

Printed Name:	K. Tollette	Signature:	
Title:	Program Supervisor III	Date:	March 9, 2018

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
Unit: McConnell Housing Assignment: 19 Y-007  
Unit where incident occurred: 19 Dorm - McConnell Unit

**OFFICE USE ONLY**

Grievance #: 2017 1921106  
UGI Recd Date: OCT 02 2017  
HQ Recd Date: OCT 05 2017  
Date Due: NOV 11 2017  
Grievance Code: 815  
Investigator ID#: 2197  
Extension Date: \_\_\_\_\_

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

Warden C. Furr, failed to address the actual issue(s) of my Step-1 Grievance, and that was the Officer conducting count was waking people up, and having them stand at the end of their cubicle and present their ID to the Officer. This might not violate any standard rule of TDCJ-CID, but it clearly establishes that the Officer was intentionally doing something that is not apart of the standard count procedure.

Furthermore, when I asked to see rank, which I understand is in the rule book, the Officer stated that I needed to address the matter to rank, yet rank was never called, the issue of waking Offenders up at 11:30PM to stand and present their ID's could not be addressed by a ranking Officer, thus the matter was ignored by the Officers who should have been available to deal with the matter.

It seems that ever since the lawsuit against the lights being turned on, not allowing Offenders the proper amount of sleep, the Unit has gone out of its way to make a statement to the Offender population just who actually runs the Unit and implements the rules/policies/procedures even when no such rule(s) exists. Harassment, Retaliation and Abuse Of Authority do come to mind.



Offender Signature: \_\_\_\_\_

Date: December 15 2017

Grievance Response: \_\_\_\_\_

Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.

P. Chapa, Assistant Regional Director

Signature Authority: \_\_\_\_\_

Date: 11/2/2017Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017192166  
 Date Received: 8.21.17  
 Date Due: 9.30.17  
 Grievance Code: 85  
 Investigator ID #: 1950 J2209  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: SEP 27 2017

Offender Name: ROGER FAIN TDCJ # 700474  
 Unit: MC CONNEL Housing Assignment: 19 Y-007  
 Unit where incident occurred: MC CONNEL

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 AM 08/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER"

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WAKING EACH OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS ABOUT UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THIS HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A MANDATED ID ROSTER COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## Action Requested to resolve your Complaint.

OFFICER MARTINEZ NEEDS TO BE EXPLAINED THE POLICY ABOUT ALLOWING 6 UNINTERRUPTED HOURS OF SLEEP, ROSTER COUNT WAS DONE AT 8:30 PM

Offender Signature:

*Roger Furr*

Date:

08-20-17

Grievance Response:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

Signature Authority:

*C. Furr*

Warden C. Furr

Date: SEP 26 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant. Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

## OFFICE USE ONLY

Initial Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

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Appendix F

**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I 2229 Date Initiated: 08/21/17 Date Completed: 09/21/17 Date Due: 09/30/17  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2017192166

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

See Attached Narrative

## Requested Remedy:

Officer Martinez needs to be explained the policy allowing 6 uninterrupted hours of sleep, roster count was done at 8:30pm.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Sent to: Ofc. A. Martinez 2AGP

## Suggested Response to Offender:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 201

Investigating official completes the section below:

Printed Name: SHEILA R. LEHNERTSignature: Title: UGIDate: 09/21/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. Martinez 2AGP Grievance #: 2017192166 Date: 08/21/17  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 19Y-7

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness (es) Statement (signed)             | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: Due to the fact that I was conducting a proper roster count, I did speak loudly and ordered everyone multiple times to come to the end of the bunk, present their id, and afterwards they could go back to sleep, continue reading, or what they were doing. Officers are allowed to wake up offenders so they can be properly identified. I was asked why I was doing this because it wasn't policy. I stated that they could talk to me (when they came back around) so the issue could be further explained.

Martinez, Vicente  
 PRINTED NAME

[Signature]  
 SIGNATURE

8/30/17  
 DATE

CO III  
 RANK/TITLE

2AGP / security  
 SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by policy and physically identified every offender

K. Zurbano  
 PRINTED NAME

[Signature]  
 SIGNATURE

8/31/17  
 DATE

[Signature]  
 RANK/TITLE

2AGP  
 SHIFT/DEPARTMENT



You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 PM 08/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER".

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WAKING EACH OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS VIOLATE UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THIS HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A NAMED ID ROSTER COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE ONLY										STEP 1		
										STEP 2 X		
Unit	R4	INV ID:	I2197	GR #	2017192166	Date Initiated:	11/02/17	Date Completed:		11/02/17	Due Date	11/11/17
Offender Name:		FAIN, ROGER				TDCJ No:		700474	Housing:	ML		
Issue Code:		EMERGENCY		ADA	( )	Property		( )	Use of Force (UOF)		( )	
815		YES	( )	Disciplinary	( )	Religion		( )	Harassment or Retaliation*		( )	
		NO	( X )	Medical	( )	OPI Investigation		( )	PREA		( )	
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</small>												
<small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>												
<b>Summary of Issue: (Include date, time and location):</b>  Offender is claiming that Officer Martinez is going bunk to bunk asking them to come to the front of the bunk with their ID's to do count. Offender claims that this is a way for Officer Martinez to harass and to wake up and deny offenders sleep as this is not policy and very unprofessional.												
<b>Requested Remedy:</b>  Officer Martinez needs to be explained proper policy about allowing 6 hours of uninterrupted sleep as roster count was done at 8:30pm.												
<small>The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.</small>												
<b>Summary of Fact Finding Activity:</b>  Officer Martinez statement SM-01.03												
<b>Suggested Response to Offender:</b>  <div style="text-align: right;">08</div> Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.												
OUTCOME CODE:		D		RESOLUTION CODE:		2.01		(Grievance Office Use Only)				
Investigating official completes the section below:												
Printed Name:		L. PELITIRE				Signature:						
Title:		AA IV				Date:		November 2, 2017				
<small>This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.</small>												





**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
Unit: McConnell Housing Assignment: 19 Y-007  
Unit where incident occurred: Unit Infirmary

OFFICE USE ONLY	
Grievance #:	<u>2017179272</u>
UGI Recd Date:	<u>SEP 14 2017</u>
HQ Recd Date:	<u>SEP 18 2017</u>
Date Due:	<u>10-29</u>
Grievance Code:	<u>618</u>
Investigator ID#:	_____
Extension Date:	_____

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

I have once again brought forth a complaint against Ms. Tanya Lawson, Practice Manager of the McConnell Unit Infirmary, and once again Ms. Lawson answers the Grievance/Complaint against herself, (See attached document, I-60 dated 07-18-2017).

Ms. Lawson failed to address the issue(s) I raised against her and those concerning the Infirmary, i.e. failing to treat my medical condition with the appropriate medications. Furthermore, in her reply/response, Ms. Lawson compounds her continuing "mis-direction" by lying on a Official TDCJ-CID document, when she states that: "YOUR NAPROXEN PRESCRIPTION EXPIRED ON 4.2.17 AND WAS NOT RENEWED. YOU HAD COMPLETE BLOOD WORK ON IN APRIL, PRIOR TO YOUR CHRONIC CARE CLINIC THAT GAVE THE PROVIDER THE PROPER INFORMATION TO MAKE HIS DETERMINATION." This statement is a lie, and an attempt at mis-directing the issue(s) raised.

Prior to my April 28th 2017 Chronic Care Clinic I did not have any blood work done. My last blood work was done after my Chronic Care Clinic in 2016, and at no time was the bloodwork taken and analyzed for my kidneys or to determine if Naproxen was damaging my kidney function.

I have arthritis, I have serious swelling in my elbows, finger joints, and feet, Naproxen is the medication prescribed for the proper treatment for arthritis, the only reason it was discontinued was due to money concerns, and one 325mg aspirin, and 25mg Nortriptyline replaced the proper treatment, and I have given notice to the Infirmary/Ms. Lawson that the pain is greater than the treatment. Her response, "you may require a higher dose..." Ms. Lawson has over stepped her job description as Practice Manager and is giving medical advice, and this is an issue I put forth in my step-one, a grievance that Ms. Lawson herself answered.

Ms. Lawson is a stickler for an Offender to abide by the rules of UTMB, but she herself is in violation herself of Rules, Procedures and Policies of TDCJ-CID. Furthermore, I attached the I-128 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

Exhibit 1

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Appendix G



the original I-60 dated 7.18.2017, but for some reason when the grievance was returned, the attachment was missing, so I have once again attached a copy of the I-60 so as to assist in the determination of this grievance.

Offender Signature:

*Regan Fair*

*\* ATTACHMENT, COPY I-60 \**

*200474*

Date: September 12th 2017

Grievance Response:

A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders.

The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care.

If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

**STEP II MEDICAL GRIEVANCE PROGRAM  
OFFICE OF PROFESSIONAL STANDARDS  
TDCJ HEALTH SERVICES DIVISION**

Signature Authority:

Date:

*9/29/17*

Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

STEP 1

OFFENDER  
GRIEVANCE FORMAccept As Original *ce*

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Wm.G.McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: Unit Infirmary

## OFFICE USE ONLY

Grievance #: 2017171272  
 Date Received: 7.27.17  
 Date Due: 9.10.17  
 Grievance Code: C018  
 Investigator ID #: 19502226  
 Extension Date: \_\_\_\_\_  
 Date Ret'd to Offender: SEP 08 2017

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17

What was their response? Didn't address the issues, just informed me to fill out a sick-call request

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examining the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me



a great deal of pain & suffering, thus they are medically indifferent to my medical needs and treatment, the I-60 is required to begin the process of the grievance procedure, I have made an effort to resolve this matter with Ms. Lawson as is required by CMHC Policy 12.1, her reply was unsatisfactory, thus I will proceed with a Step-I.

**\* ATTACHED ORIGINAL I-60 \***

**Action Requested to resolve your Complaint.**

I wish to be treated properly, and given the proper medication to treat the inflammation and pain of arthritis, and I wish to have the infirmary to revise their policy on treating Offenders.

Offender Signature: [Signature]

Date: July 24th 2017 (5:00 PM)

Grievance Response:

Offender Fain, aspirin is non-steroidal anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long term-chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired on 4/2/17 and was not renewed. You had complete blood work on in April, prior to your Chronic Care Clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.

Signature Authority: [Signature]

Date: 8-31-17

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

**OFFICE USE ONLY**

Initial Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_



## TEXAS DEPARTMENT OF CRIMINAL JUSTICE — INSTITUTIONAL DIVISION

## INMATE REQUEST TO OFFICIAL

REASON FOR REQUEST: (Please check one)

PLEASE ABIDE BY THE FOLLOWING CHANNELS OF COMMUNICATION. THIS WILL SAVE TIME, GET YOUR REQUEST TO THE PROPER PERSON, AND GET AN ANSWER TO YOU MORE QUICKLY.

- |  |   |
|--|---|
| <p>1. <input type="checkbox"/> Unit Assignment, Transfer (Chairman of Classification, Administration Building)</p> <p>2. <input type="checkbox"/> Restoration of Lost overtime (Unit Warden-if approved, it will be forwarded to the State Disciplinary Committee)</p> <p>3. <input type="checkbox"/> Request for Promotion in Class or to Trusty Class (Unit Warden- if approved, will be forwarded to the Director of Classification)</p> <p>4. <input type="checkbox"/> Clemency-Pardon, parole, early out-mandatory supervision (Board of Pardons and Paroles, 8610 Shoal Creek Blvd. Austin, Texas 78757)</p> | <p>5. <input type="checkbox"/> Visiting List (Asst. Director of classification, Administration Building)</p> <p>6. <input type="checkbox"/> Parole requirements and related information (Unit Parole Counselor)</p> <p>7. <input type="checkbox"/> Inmate Prison Record (Request for copy of record, information on parole eligibility, discharge date, detainers-Unit Administration)</p> <p>8. <input type="checkbox"/> Personal Interview with a representative of an outside agency (Treatment Division, Administration Building)</p> |
|--|---|

TO: Ms. Tanya Lawson, Practice Manager  
(Name and title of official)DATE: 07-12-17ADDRESS: McConnell Unit

SUBJECT: State briefly the problem on which you desire assistance.

\* PER CMHC Policy 12.1 \*Ms. Lawson,

I HAVE BEEN DIAGNOSED, AND DOCUMENTED FOR HAVING ARTHRITIS, L. FOOT, HANDS & ELBOW. I WAS PRESCRIBED 1000 MG NAPROXEN, AN ANTI-INFLAMMATORY, ABOUT 2 TO 90 DAY KOPS, MEDICAL DIRECTOR KWARTENG DISCONTINUED IT, GAVE ME 1 325MG ASPIRIN PER DAY, AND 1 25MG NORTRIPTYLINE, WHICH IS A ANTI-DEPRESSANT, A PSYCH DRUG. DUE TO LACK OF PROPER MEDICAL TREATMENT, AND MEDICAL INDIFFERENCE TO MY MEDICAL ISSUES, ARTHRITIS WITH SWELLING AND CONSTANT PAIN, AGGRAVATED BY THE FACT THAT I WORK IN THE GARMENT FACTORY 4 DAYS A WEEK, I FEEL I HAVE NO RECOURSE BUT TO GO THROUGH THE GRIEVANCE PROCEDURE TO EXHAUST MY ADMINISTRATIVE REMEDIES AND THUS TAKE THIS MATTER TO COURT.

Name: ROGER PAINENo: 700474Unit: McCONNELLLiving Quarters: 194-007Work Assignment: GARMENT FACTORY

DISPOSITION: (Inmate will not write in this space)

RECEIVED JUL 19 2017

Nortriptyline is used to treat long term chronic pain. It is more effective for this use than other pain medications and does not have the negative Exhibit 1 effects to your liver or kidneys. It typically takes 2-3 weeks to be effective and you may require a higher dose. please submit a sick call. TANYA LAWSON 169 7-19-17



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

## GRIEVANCE OFFICE USE ONLY

Unit: <b>ML</b>	Investigator ID: <b>I-2226</b>	Date Initiated: <b>07/27/17</b>	Date Completed: <b>SEP 07 2017</b>	Date Due: <b>09/10/17</b>
Offender Name: <b>Fain, Roger</b>	TDCJ No: <b>700474</b>	Grievance No: <b>2017179272</b>		
Issue Code: <b>618</b>	EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA <input type="checkbox"/> Disciplinary <input type="checkbox"/> Medical <input checked="" type="checkbox"/>	Property <input type="checkbox"/> Religion <input type="checkbox"/> OPI Investigation <input type="checkbox"/>	Use of Force (UOF) <input type="checkbox"/> Harassment or Retaliation * <input type="checkbox"/> PREA <input type="checkbox"/>

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet Completed.

Summary of Issue: (include date, time and location): Offender claims he needs to return to his prescription of naproxen because aspirin and nortriptyline do not reduce his swelling.

Requested Remedy: I wish to be treated properly and given the proper medication.

The following is to be completed and signed by the Investigating Official. Attach statements/support documentation, if applicable.

Summary of Fact Finding Activity: Sent to Medical

Suggested Response to Offender: Offender Fain, aspirin is a non-steroidal Anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long-term chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired 4/26/17 and was not renewed.

OUTCOME CODE: 0 RESOLUTION CODE: 2.01 (Grievance Office Use Only)

Investigating Official completes the section below.

Printed Name: TANYA LAWSON  
Title: SR. PRACTICE MANAGER

Signature: Tanya LawsonDate: 8-31-17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

You had complete blood work done in April, prior to your chronic care clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1

## OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017179272  
 Date Received: 7.27.17  
 Date Due: 9.10.17  
 Grievance Code: 6018  
 Investigator ID #: 1950  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: \_\_\_\_\_

Offender Name: Roger Fain TDCJ # 00700474Unit: Wm.G.McConnell Housing Assignment: 19 Y-007Unit where incident occurred: Unit Infirmary

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17What was their response? Didn't address the issues, just informed me to fill out a sick-call requestWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examing the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me

Exhibit 1

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Offender Fain, aspirin is non-steroidal anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long term-chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired on 4/2/17 and was not renewed. You had complete blood work on in April, prior to your Chronic Care Clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.



# Grievance Investigation Worksheet

Restricted & Confidential

<b>Grievance Office Use Only</b>		<b>Step 1</b>	
		<b>Step 2 X</b>	
Unit: ML - MCCONNELL Investigator ID: RKE3160 Date Initiated: 9/19/17		Date Completed: 9/28/17 Due Date: 10/29/17	
Offender Name: FAIN, ROGER TDCJ No: 00700474		Grievance No: 2017179272	
Issue Code: 618	Emergency Yes ( ) No (X)	ADA ( ) Disciplinary ( ) Medical (X)	Property ( ) Religion ( ) OPI Investigation ( ) PREA ( ) Use of Force (UOF) ( ) Harassment or Retaliation * ( )
* Harassment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity			
NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UCF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.			
Summary of Issue: (include date, time and location.)		See Step 1 OG-01 Grievance Investigation Worksheet	
Offender Fain complained he was given another medication for pain for his arthritis because the medical department seems to be of the opinion that the proper medicine for his arthritis pain could cause liver and kidney problems. He complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. Also, he complained for the infirmary to revise their policy on treating Offenders. ///			
Requested Remedy:		See Step 1 OG-01 Grievance Investigation Worksheet.	

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, if applicable.

## Summary of Fact Finding Activity:

Concur with findings from Step 1. ///

## Suggested Response to Offender:

A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders. ///The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care. ///If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

OUTCOME CODE: DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

RESOLUTION CODE: 2.02

Investigating Official completes the section below.

Printed Name: KELLY, ROSALYN

Signature: 

Title: RN II

Date: 9/29/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Dale Dorman, RN  
Manager III  
TDCJ Health Services





## Texas Department of Criminal Justice

## STEP 2

OFFENDER  
GRIEVANCE FORM

Offender Name: Roger Fain ID# 00700474  
 Unit: McConnell Housing Assignment: 19 Building Y-Dorm  
 Unit where incident occurred: 19 Building Y-Dorm

OFFICE USE ONLY	
Grievance #	<u>2018025778</u>
File Date	<u>DEC 20 2017</u>
File Date	<u>DEC 28 2017</u>
File Date	<u>1-29</u>
Grievance #	<u>815,899</u>
Appellate ID	
Appellate Date	

You must attach the completed Step 1 Grievance form to this form. If the grievance is not accepted, you may not appeal to Step 2. If the grievance is accepted, you may not appeal to Step 2.

Give reason for appeal (Be Specific). *See grievance # 2018025778*

It is obvious that the Warden's response is just a blow-off of the issue presented to him as well as many others. When an issue is brought forth with numerous Offender's stating the same thing, not only from the same Dorm, but from others and the Grievance Investigator finds that the "Investigation Failed To Produce Substantial Evidence To Support Your Allegations..." some thing is seriously flawed with the investigation of said claim, and the investigator who fails to properly investigate the issues brought forth.

It is apparent to me that the investigator's investigation was just to ask the Officer involved in the incident grieved if the matter is true or not??? Name one Officer working for TDCJ-CID who would admit wrong doing in any type of investigation. When asked it is apparent Officer Martinez stated he did nothing wrong, that he was only doing his assigned job...

My Step-I states a number of claims that are all from the same incident, and since this Office only recognizes "One Issue Per Grievance" here is my issue I wish to put forth, the Grievance Procedure On The McConnell Unit Is A Joke, and that is the gist of my issue.



Offender Signature: \_\_\_\_\_

Date: December 16th 2017

Grievance Response: \_\_\_\_\_

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☒ 3. Originals not submitted.\* *Signature*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

*W. Pelotie*

*[Signature]*

**OFFICE USE ONLY****Initial Submission**CGO Initials: *UP*Date U/G Recd: *12-20*Date CGO Recd: *12-28-17*(check one) ☒ Screened ☐ Improperly SubmittedComments: *\* 3 Signature*Date Returned to Offender: *1-23-18***2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date U/G Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date U/G Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**Exhibit 1****176**





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2018025778  
 Date Received: 10.18.17  
 Date Due: 11.27.17  
 Grievance Code: 815  
 Investigator ID #: 1900 2475  
 Extension Date: 1-6  
 Date Retd to Offender: DEC 15 2017

Offender Name: ROGER FAHM TDCJ # 00700474  
 Unit: McCONNELL Housing Assignment: 19 Y 007  
 Unit where incident occurred: McCONNELL, DORM 19 Y

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17  
 What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED  
 What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COLL BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOO, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED PASTOR COURT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #23 (IN THIS CASE DENYING OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS ARENT



PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT WILL BE RESOLVED BY THIS PROCEDURE OF DOING A GRIEVANCE.

Action Requested to resolve your Complaint.

OFFENDERS WORK EARLY AND SLEEP IS NECESSARY, ROSTER COUNT IS CONDUCTED A 8:00 PM, ID'S CAN BE "PERSONALLY" PRESENTED AT THAT TIME

Offender Signature: John Fain (SUBMITTED @ 3:00 AM) Date: 10-17-17

**Grievance Response:**

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

Signature Authority:

C. Furr

Warden C. Furr

Date: DEC 13 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

Exhibit 1

**OFFICE USE ONLY**

Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2 <sup>nd</sup> Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3 <sup>rd</sup> Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

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**RESTRICTED  
AND  
CONFIDENTIAL**

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I-2475 Date Initiated: 10/18/17 Date Completed: 12/13/17 Date Due: 11/27/17  
 Offender Name: Fain, Roger TDCJ No: 00700474 Grievance Number: 2018025778

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

See Attached Narrative

Requested Remedy:

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Sent to: Ofc. V. Martinez 2A/GP

SM - 01.03 Count Procedures

Suggested Response to Offender:

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name:

M. Lugo

Signature:

M. Lugo

Title:

Investigator III

Date:

12/13/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. V. Martinez 2A/GP Grievance #: 2018025778 Date: 10/18/17  
 Offender Name: Fain, Roger TDCJ#: 00700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness(es) Statement (signed)              | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: During a proper roster count, I order offenders to come to the end of the bunk to present their id for a proper roster count. If they fail to comply I do write a disciplinary case for disobeying orders. I do not take pleasure in waking up offenders but have to because it's how it's supposed to be done to properly identify offenders.

Martinez, V  
 PRINTED NAME

V. Martinez  
 SIGNATURE

10/31/17  
 DATE

CO III  
 RANK/TITLE

2A GP / security  
 SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by waking the offenders up to verify their identity.

K. Zambardo  
 PRINTED NAME

K. Zambardo  
 SIGNATURE

10/31/17  
 DATE

K. Zambardo  
 RANK/TITLE

2A GP  
 SHIFT/DEPARTMENT

Exhibit 1

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You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANIK When? 10-17-17

What was their response? RANIK WAS NOT CALLED, IN FACT IT WAS DENIED

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COIT BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOO, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED POSTER COURT BY WAKING OFFICERS AFTER 11:00 PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING OFFENDER'S ADEQUENT SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

I-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM POSTER COURT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COURT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVED FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT











Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2018025778	Gain, Roger	700474	ML



## Texas Department of Criminal Justice

### NOTICE OF EXTENSION

#### Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

**Step 1 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☒ An additional 40 days is needed for appropriate response to your grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

**Step 2 Grievance:** (check the applicable box)

- ☐ An additional 30 days is needed for appropriate response to your disciplinary appeal.
- ☐ An additional 40 days is needed for appropriate response to your Step 2 grievance.
- ☐ An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

K. Fuentes, Clerk II

Name and Title

11/14/17

Date

Original – Send to the Offender

Copy – Attach to the Grievance







**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: 19 Dorm - McConnell Unit

**OFFICE USE ONLY**

Grievance #: 2017 1921166  
 UGI Recd Date: OCT 02 2017  
 HQ Recd Date: OCT 05 2017  
 Date Due: NOV 11 2017  
 Grievance Code: 815  
 Investigator ID#: 2197  
 Extension Date: \_\_\_\_\_

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

Warden C. Furr, failed to address the actual issue(s) of my Step-1 Grievance, and that was the Officer conducting count was waking people up, and having them stand at the end of their cubicle and present their ID to the Officer. This might not violate any standard rule of TDCJ-CID, but it clearly establishes that the Officer was intentionally doing something that is not apart of the standard count procedure.

Furthermore, when I asked to see rank, which I understand is in the rule book, the Officer stated that I needed to address the matter to rank, yet rank was never called, the issue of waking Offenders up at 11:30PM to stand and present their ID's could not be addressed by a ranking Officer, thus the matter was ignored by the Officers who should have been available to deal with the matter.

It seems that ever since the lawsuit against the lights being turned on, not allowing Offenders the proper amount of sleep, the Unit has gone out of its way to make a statement to the Offender population just who actually runs the Unit and implements the rules/policies/procedures even when no such rule(s) exists. Harassment, Retaliation and Abuse Of Authority do come to mind.



Offender Signature: \_\_\_\_\_

Date: December 15 2017

Grievance Response: \_\_\_\_\_

Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.

P. Chapa, Assistant Regional Director

Signature Authority: \_\_\_\_\_

Date: 11/2/2017Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

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## Texas Department of Criminal Justice

# STEP 1

## OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017192166  
 Date Received: 8.21.17  
 Date Due: 9.30.17  
 Grievance Code: 85  
 Investigator ID #: 1950 J2209  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: SEP 27 2017

Offender Name: ROGER FAIR TDCJ # 700474  
 Unit: McCONNELL Housing Assignment: 19 Y-007  
 Unit where incident occurred: McCONNELL

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 AM 09/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER"

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WAKING EACH OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS ABOUT UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THIS HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A NAMED ID ROSTER COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## Action Requested to resolve your Complaint.

OFFICER MARTINEZ NEEDS TO BE EXPLAINED THE POLICY ABOUT ALLOWING 6 UNINTERRUPTED HOURS OF SLEEP, ROSTER COUNT WAS DONE AT 8.30 PM

Offender Signature:

*Roger Tam*

Date:

08-20-17

Grievance Response:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

Signature Authority:

*C. Furr*

Warden C. Furr

Date:

SEP 26 2017

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because:

\*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

Exhibit 1

## OFFICE USE ONLY

Initial Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

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Appendix F



**TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE**

**OFFENDER GRIEVANCE PROGRAM**

**NOTICE**

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED  
AND  
CONFIDENTIAL**

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE  
ONLY

STEP 1 X

STEP 2

Unit: ML Investigator ID: I 2229 Date Initiated: 08/21/17 Date Completed: 09/21/17 Date Due: 09/30/17  
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2017192166

Issue Code:	EMERGENCY	ADA	( )	Property	( )	Use of Force (UOF)	( )
815	YES ( )	Disciplinary	( )	Religion	( )	Harassment or Retaliation*	( )
	NO (X)	Medical	( )	OPI Investigation	( )	PREA	( )

\*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

## Summary of Issue: (Include date, time and location):

See Attached Narrative

## Requested Remedy:

Officer Martinez needs to be explained the policy allowing 6 uninterrupted hours of sleep, roster count was done at 8:30pm.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

## Summary of Fact Finding Activity:

Sent to: Ofc. A. Martinez 2AGP

## Suggested Response to Offender:

Your complaint has been noted. Staff statement refute your allegations, advising that count procedures were conducted in accordance to policy. Policy stipulates that the correctional officer shall verify they are counting a living, breathing offender, not an object. Correctional officers shall turn on count lights, dayroom lights or use flashlights to assist in conducting an accurate count at nighttime, if needed; furthermore, officers shall positively identify each offender using the offenders ID card. No policy violations occurred. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 201

Investigating official completes the section below:

Printed Name: SHEILA R. LEHNERTSignature: Title: UGIDate: 09/21/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

## Official Statement

Unit: ML Staff Name: Ofc. Martinez 2AGP Grievance #: 2017192166 Date: 08/21/17  
 Offender Name: Fain, Roger TDCJ#: 700474 Housing Location: 19Y-7

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

## Please Provide the Following Documents

- |  |   |
|--|---|
| <input type="checkbox"/> Participant(s) Statement                    | <input type="checkbox"/> Other                                      |
| <input type="checkbox"/> Witness (es) Statement (signed)             | <input type="checkbox"/> Staff or Offender Protection Investigation |
| <input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding) | <input type="checkbox"/> Property Inventory Forms                   |
| <input type="checkbox"/> Shift Roster                                | <input type="checkbox"/> Property Logs                              |
| <input type="checkbox"/> Ingress/Egress Log                          |   |
| <input type="checkbox"/> Property Confiscation Form                  |   |

## ALLEGATIONS:

Please see attached and address all allegations

EMPLOYEE STATEMENT: Due to the fact that I was conducting a proper roster count, I did speak loudly and ordered everyone multiple times to come to the end of the bunk, present their id, and afterwards they could go back to sleep, continue reading or what they were doing. Officers are allowed to wake up offenders so they can be properly identified. I was asked why I was doing this because it wasn't policy. I stated that they could talk to me (when they came back around) so the issue could be further explained.

Martinez, Vichente  
 PRINTED NAME

Vall HZ  
 SIGNATURE

8/30/17  
 DATE

CO III  
 RANK/TITLE

2AGP / security  
 SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by policy and physically identified every offender

K. Zwickro  
 PRINTED NAME

[Signature]  
 SIGNATURE

8-31-17  
 DATE

[Signature]  
 RANK/TITLE

2AGP  
 SHIFT/DEPARTMENT



You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? REQUESTED TO SEE RANK, IGNORED When? 11:30 PM 08/20/17  
 What was their response? OFFICER MARTINEZ STATED TO TALK TO RANK, NOT HIM  
 What action was taken? DENIED ACCESS TO RANK, WAKE UP TO "HAND ID TO OFFICER".

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AUGUST 20TH 2017, AT 11:30 PM, OFFICER MARTINEZ WAS GOING BUNK TO BUNK WALKING DOWN OFFENDER TO HAVE THEM STAND AT THE FOOT OF THE BUNK TO BE COUNTED. OFFICER MARTINEZ STATED "WAKE UP, HAVE YOUR ID IN HAND, AND STAND AT THE END OF THE BUNK, YOU CAN GO BACK TO SLEEP."

OFFICER MARTINEZ'S ACTIONS AREN'T UNIT POLICY, THESE ACTIONS ARE OFFICER MARTINEZ'S INTERPRETATION OF RULES TO HARASS, TO WAKE UP, AND DENY OFFENDERS OF WHAT SLEEP THEY CAN GET IN THIS HEAT, OFFICER MARTINEZ'S ACTIONS ARE UNPROFESSIONAL, IRRESPONSIBLE, AND IN VIOLATION OF TDCJ-CID POLICY CONCERNING SLEEP DEPRIVATION.

I WAS AWAKEN BY THE 8:30 PM COUNT OFFICER WHEN HE WAS TAKING A NAMED ID ROSTER COUNT.

IT ALWAYS SEEMS IT IS SOLELY THIS OFFICER WHO HARASSES OFFENDERS (MARTINEZ) ABOUT WAKING UP TO PRESENT ID'S. THIS ISN'T A MATTER OF A "WELLNESS CHECK" THIS IS JUST HIS WAY OF HARASSING OFFENDERS



## GRIEVANCE INVESTIGATION WORKSHEET

Restricted &amp; Confidential

GRIEVANCE OFFICE USE ONLY										STEP 1		
										STEP 2 X		
Unit	R4	INV ID:	I2197	GR #	2017192166	Date Initiated:	11/02/17	Date Completed:		11/02/17	Due Date	11/11/17
Offender Name:		FAIN, ROGER				TDCJ No:		700474	Housing:	ML		
Issue Code:		EMERGENCY		ADA	( )	Property		( )	Use of Force (UOF)		( )	
815		YES	( )	Disciplinary	( )	Religion		( )	Harassment or Retaliation*		( )	
		NO	( X )	Medical	( )	OPI Investigation		( )	PREA		( )	
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</small>												
<small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>												
<b>Summary of Issue: (Include date, time and location):</b>  Offender is claiming that Officer Martinez is going bunk to bunk asking them to come to the front of the bunk with their ID's to do count. Offender claims that this is a way for Officer Martinez to harass and to wake up and deny offenders sleep as this is not policy and very unprofessional.												
<b>Requested Remedy:</b>  Officer Martinez needs to be explained proper policy about allowing 6 hours of uninterrupted sleep as roster count was done at 8:30pm.												
The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.												
<b>Summary of Fact Finding Activity:</b>  Officer Martinez statement SM-01.03												
<b>Suggested Response to Offender:</b>  <div style="text-align: right;">08</div> Submit one issue per grievance. Your complaint has been noted and was appropriately addressed at Step One. No further action warranted.												
OUTCOME CODE:		D	RESOLUTION CODE:		2.01	(Grievance Office Use Only)						
Investigating official completes the section below:												
Printed Name:		L. PELITIRE				Signature:						
Title:		AA IV				Date:		November 2, 2017				
<small>This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.</small>												





**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: Unit Infirmary

**OFFICE USE ONLY**

Grievance #: 2017179272  
 UGI Recd Date: SEP 14 2017  
 HQ Recd Date: SEP 18 2017  
 Date Due: 10-29  
 Grievance Code: 618  
 Investigator ID#: \_\_\_\_\_  
 Extension Date: \_\_\_\_\_

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

**Give reason for appeal (Be Specific).** *I am dissatisfied with the response at Step 1 because...*

I have once again brought forth a complaint against Ms. Tanya Lawson, Practice Manager of the McConnell Unit Infirmary, and once again Ms. Lawson answers the Grievance/Complaint against herself, (See attached document, I-60 dated 07-18-2017).

Ms. Lawson failed to address the issue(s) I raised against her and those concerning the Infirmary, i.e. failing to treat my medical condition with the appropriate medications. Furthermore, in her reply/response, Ms. Lawson compounds her continuing "mis-direction" by lying on a Official TDCJ-CID document, when she states that: "YOUR NAPROXEN PRESCRIPTION EXPIRED ON 4.2.17 AND WAS NOT RENEWED. YOU HAD COMPLETE BLOOD WORK ON IN APRIL, PRIOR TO YOUR CHRONIC CARE CLINIC THAT GAVE THE PROVIDER THE PROPER INFORMATION TO MAKE HIS DETERMINATION." This statement is a lie, and an attempt at mis-directing the issue(s) raised.

Prior to my April 28th 2017 Chronic Care Clinic I did not have any blood work done. My last blood work was done after my Chronic Care Clinic in 2016, and at no time was the bloodwork taken and analyzed for my kidneys or to determine if Naproxen was damaging my kidney function.

I have arthritis, I have serious swelling in my elbows, finger joints, and feet, Naproxen is the medication prescribed for the proper treatment for arthritis, the only reason it was discontinued was due to money concerns, and one 325mg aspirin, and 25mg Nortriptyline replaced the proper treatment, and I have given notice to the Infirmary/Ms. Lawson that the pain is greater than the treatment. Her response, "you may require a higher dose..." Ms. Lawson has over stepped her job description as Practice Manager and is giving medical advice, and this is an issue I put forth in my step-one, a grievance that Ms. Lawson herself answered.

Ms. Lawson is a stickler for an Offender to abide by the rules of UTMB, but she herself is in violation herself of Rules, Procedures and Policies of TDCJ-CID. Furthermore, I attached the I-128 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

Exhibit 1

199 (OVER)

Appendix G



the original I-60 dated 7.18.2017, but for some reason when the grievance was returned, the attachment was missing, so I have once again attached a copy of the I-60 so as to assist in the determination of this grievance.

Offender Signature:

*John Tain*

700474

Date: September 12th 2017

Grievance Response:

~~ATTACHMENT, COPY I-60~~

A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders.

The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care.

If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

**STEP II MEDICAL GRIEVANCE PROGRAM  
OFFICE OF PROFESSIONAL STANDARDS  
TDCJ HEALTH SERVICES DIVISION**

Signature Authority:

Date:

9/29/17

Returned because: \*Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

Exhibit 1

200





## Texas Department of Criminal Justice

STEP 1

OFFENDER  
GRIEVANCE FORMAccept As Original *ce*

Offender Name: Roger Fain TDCJ # 00700474  
 Unit: Wm.G.McConnell Housing Assignment: 19 Y-007  
 Unit where incident occurred: Unit Infirmary

## OFFICE USE ONLY

Grievance #: 2017171272  
 Date Received: 7.27.17  
 Date Due: 9.10.17  
 Grievance Code: 6018  
 Investigator ID #: 19502226  
 Extension Date: \_\_\_\_\_  
 Date Ret'd to Offender: SEP 08 2017

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17

What was their response? Didn't address the issues, just informed me to fill out a sick-call request

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examing the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me



a great deal of pain & suffering, thus they are medically different to my medical needs and treatment, the I-60 is required to begin the process of the grievance procedure, I have made an effort to resolve this matter with Ms. Lawson as is required by CMHC Policy 12.1, her reply was unsatisfactory, thus I will proceed with a Step-I.

**\* ATTACHED ORIGINAL I-60 \***

**Action Requested to resolve your Complaint.**

I wish to be treated properly, and given the proper medication to treat the inflammation and pain of arthritis, and I wish to have the infirmary to revise their policy on treating Offenders.

Offender Signature: [Signature] 700474

Date: July 24th 2017 (5:00 PM)

Grievance Response:

Offender Fain, aspirin is non-steroidal anti-inflammatory drug, or NSAID; exactly the same as Naproxen. It was the first NSAID to be used. Nortriptyline is commonly used to control long term-chronic pain, being far more effective than other classes of drugs for that use. Your creatinine level is high enough to make prescribing you Naproxen contra-indicated. Your Naproxen prescription expired on 4/2/17 and was not renewed. You had complete blood work on in April, prior to your Chronic Care Clinic that gave the provider the proper information to make his determination. I do not make clinical decisions. I merely attempt to educate/explain why a decision was made when a patient submits an informal grievance.

Signature Authority: [Signature]

Date: 8-31-17

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

**OFFICE USE ONLY**

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_





## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2017171272Date Received: 7.27.17Date Due: 9.10.17Grievance Code: 6018Investigator ID #: 1950

Extension Date: \_\_\_\_\_

Date Retd to Offender: \_\_\_\_\_

Offender Name: Roger Fain TDCJ # 00700474Unit: Wm.G.McConnell Housing Assignment: 19 Y-007Unit where incident occurred: Unit Infirmary

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? I-60 per CMHC Policy 21.1 Tanya Lawson, Manager When? 7.18.17What was their response? Didn't address the issues, just informed me to fill out a sick-call requestWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On July 18th 2017, I sent to Ms. Lawson, Practice Manager an I-60 per CMHC Policy 21.1 where it's necessary to attempt an informal resolution of the matter. I stated my problem, (see attachment), and Ms. Lawson's reply was I was given another medication for pain for my arthritis because the medical department seems to be of the opinion that the proper medicine for my pain for arthritis could cause me liver & kidney problems.

Naproxen is the prescribed medicine for arthritis pain & inflammation, I was receiving this, and it was doing the job, but after two 90 day cycles I was removed from this proper med to what Ms. Lawson and Medical Director Kwarteng stated is a better treatment, I am given one 325mg aspirin, and 25mg Nortriptyline, neither of these meds is for inflammation of the joints, which is swelling of the area, thus causing the pain, aspirin is an all purpose pain med, but Nortriptyline is in it's proper useage is for anti-depressant behavior, and by the attached I-60, Ms. Lawson wants me to have the dosage doubled. Again, neither of this new prescribed meds are for inflammation, which is the cause of the pain.

Furthermore, both Ms. Lawson, and Medical Director Kwarteng state that Naproxen would cause serious liver & kidney problems, yet at no time have either ever had me tested for liver problems, or kidney problems, their practice here on this Units Infirmary is to treat whatever ailment that an Offender states he has, without doing a proper work-up or physical examination of the problem. In my case I was seen about 18 months ago for a routine annual examination, I explained about pain in my feet, hands and elbow, without even looking at me, examing the areas in question x-rays were ordered, and later the x-rays revealed arthritic areas, but there was at no time any follow up evaluations or examinations, no hands on review of what I was complaining about.

I don't ride sick call, the medical department doesn't care that my condition is causing me

Exhibit 1

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## GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: ML Staff Name: Medical Grievance #: 2017179272 Date: 07/27/17  
 Offender Name: Fain, Roger TDCJ # 700474 Housing Location: 19Y-007

In accordance with BP-03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why, (e.g., I was on vacation; I was not assigned there, etc.). Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Document

<input type="checkbox"/>	Participant	09/10/17	
<input type="checkbox"/>	Witness(es) Statement (signed):		
<input type="checkbox"/>	Activity Logs (Recreation, Shower, Feeding)		
<input type="checkbox"/>	Shift Roster		Other:
<input type="checkbox"/>	Ingress/Egress Log		<input type="checkbox"/> Staff or Offender Protection Investigation
<input type="checkbox"/>	Property Confiscation Form		<input type="checkbox"/> Property Inventory Forms
			<input type="checkbox"/> Property Logs

Offender claims he needs to return to his prescription of naproxen because asprin and nortriptyline do not reduce his swelling.

## EMPLOYEE STATEMENT:

PRINTED NAME

DATE

SIGNATURE

RANK/TITLE

SHIFT/DEPARTMENT

## SUPERVISORS COMMENTS:

OFFENDER WAS SEEN ON 4/28/17 AND HE WAS ADVISED TO AVOID MEDICATIONS LIKE NAPROXEN THAT CAN EXAGGERATE HIS KIDNEY FUNCTION WITH HIS CREATININE ALREADY GREATER THAN 1(ONE). HE WAS GIVEN MEDICATION THAT IMPACTS THE KIDNEY TO A LESSER DEGREE THAN NAPROXEN.  
 ISAM KWARTENG

PRINTED NAME

DATE

SIGNATURE

MEDICAL  
RANK/TITLEMEDICAL  
SHIFT/DEPARTMENT



**Grievance Investigation Worksheet**  
**Restricted & Confidential**

<b>Grievance Office Use Only</b>		<b>Step 1</b>	
		<b>Step 2 X</b>	
Unit: ML - MCCONNELL Investigator ID: RKE3160 Date Initiated: 9/19/17		Date Completed: 9/28/17 Due Date: 10/29/17	
Offender Name: FAIN, ROGER TDCJ No: 00700474		Grievance No: 2017179272	
Issue Code: 618	Emergency Yes ( ) No (X)	ADA ( ) Disciplinary ( ) Medical (X)	Property ( ) PREA ( ) Religion ( ) Use of Force (UOF) ( ) OPI Investigation ( ) Harassment or Retaliation * ( )
* Harassment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity			
NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UCF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.			
Summary of Issue: (include date, time and location.)		See Step 1 OG-01 Grievance Investigation Worksheet	
Offender Fain complained he was given another medication for pain for his arthritis because the medical department seems to be of the opinion that the proper medicine for his arthritis pain could cause liver and kidney problems. He complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. Also, he complained for the infirmary to revise their policy on treating Offenders. ///			
Requested Remedy:		See Step 1 OG-01 Grievance Investigation Worksheet.	

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, if applicable.

**Summary of Fact Finding Activity:**

Concur with findings from Step 1. ///

**Suggested Response to Offender:**

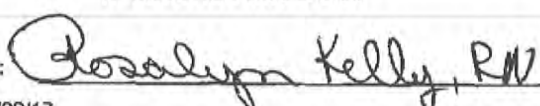
A review of the Step 1 Medical Grievance has been completed regarding your complaint to be given another medication for your arthritis pain. Also you complained to be treated properly and given the proper medication to treat the inflammation and pain of arthritis. You complained for the infirmary to revise policy on treating Offenders. ///The review shows you are currently prescribed Aspirin which is a pain/anti-inflammatory medication. Also, the indication for Nortriptyline states it relief symptoms of depression and chronic pain. Appellate review of your Health Record shows on 07/27/2017, you were seen by the Mental Health (MH) provider and you requested to know whether Nortriptyline is a psychotropic medication. You were informed by the MH provider that Nortriptyline can be prescribed to ameliorate/alleviate symptoms of depression and can be prescribed by the medical department for medical reasons to include pain control. The documentation in your Health Record shows you have been afforded access to proper medical care. ///If you feel your medical condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider.

**OUTCOME CODE:** DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

**RESOLUTION CODE:** 2.02

Investigating Official completes the section below.

**Printed Name:** KELLY, ROSALYN

**Signature:** 

**Title:** RN II

**Date:** 9/29/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

**Dale Dorman, RN**  
**Manager III**  
**TDCJ Health Services**